## 1AC

### Framework (Or Lack Thereof)

Ought is defined as consistency with function. Macintyre 81 Alasdair MacIntyre, [After Virtue](http://www.amazon.com/After-Virtue-Study-Moral-Theory/dp/0268035040/), 1981

Yet in fact the alleged unrestrictedly general logical principle on which everything is being made to depend is bogus- and the scholastic tag applies only to Aristotelian syllogisms. There are several types of valid arguments in which some element may appear in a conclusion which is not present in the premises. A.N. Prior’s counter-example to this illustrates its breakdown adequately; from the premise ‘He is a sea captain’; the conclusion may be validly inferred that ‘He ought to do whatever a sea-captain ought to do’. This counter-example not only shows that there is no general principle of the type alleged; but it itself shows what is at least a grammatical truth—an ‘is’ premise can on occasion entail an ‘ought’ conclusion. From such factual premises as ‘This watch is grossly inaccurate and irregular in time-keeping’ and ‘This watch is too heavy to carry about comfortably’, the evaluative conclusion validly follows that ‘This is a bad watch’. From such factual premises as ‘He gets a better yield for this crop per acre than any farmer in the district’, ‘He has the most effective programme of soil renewal yet known’ and ‘His dairy herd wins all the first prizes at the agricultural shows’, the evaluative conclusion validly follows that ‘He is a good farmer’. Both of these arguments are valid because of the special character of the concepts of a watch and of a farmer. Such concepts are functional concepts; that is to say, we define both ‘watch’ and ‘farmer’ in terms of purpose of function which a watch or a farmer are characteristically expected to serve. It follows that the concept of a watch cannot be defined independently of the concept of a good watch nor the concept of a farmer independently of that of a good farmer; and that the criterion of something’s being a watch and the criterion of something’s being a good watch.

And, the criminal justice system is designed as a mechanism for responding to and reducing crime. Even if the system is executed using a rehabilitative or retributive approach, those strategies are manifestations of this purpose – to stop criminals. An alternative theory might be the system is meant to determine guilt, but the only reason why one would need to be held accountable would be if the action was bad in the first place – it has no value apart from being a means to target those who are dangerous to the community. This interp **firstly** devolves into consequentialism since holding someone accountable is an instrumental good, not an intrinsic one, and **secondly** doesn’t link into ought as function, since it’s a tool the system uses, not its overall purpose.

Thus, the standard is minimizing crime.

Because we have to look to the responsibilities of the agent in question, other impacts don’t link to my standard. Extinction may be bad, but the justice system is intended to address criminal issues and is not responsible for other concerns.

Also, you should prefer this interpretation.

1. Value-based definitions like moral obligation don’t make sense contextually. The resolution is a question of what an institution, i.e. the government should do and
2. Institutions aren’t inherent in the universe and don’t have a natural value but rather the functions we give them. Thus we can only evaluate institutions on the basis of function.
3. Institutions are evaluated based on how effective they are; the only reason why we subscribe to a government is because it is easier for a collective body to make decisions. Mactinyre says effectiveness is judged relative to purpose, i.e. since a watch is supposed to tell time, a bad watch doesn’t.
4. Determinism- Our actions are predetermined; brain studies indicate our choices are a product of our brain’s biological processes, out of our own control.

Harris 12 Harris, Sam, Ph.D. In neuroscience from UCLA, CEO of Project Reason, “Free Will”, 2012

The physiologist Benjamin Libet famously used EEG to show that activity in the brain’s motor cortex can be detected some 300 milliseconds before a person feels that he has decided to move. 2 Another lab extended this work using functional magnetic resonance imaging (fMRI): Subjects were asked to press one of two buttons while watching a “clock” composed of a random sequence of letters appearing on a screen. They reported which letter was visible at the moment they decided to press one button or the other. The experimenters found two brain regions that contained information about which button subjects would press a full 7 to 10 seconds before the decision was consciously made. 3 More recently, direct recordings from the cortex showed that the activity of merely 256 neurons was sufficient to predict with 80 percent accuracy a person’s decision to move 700 milliseconds before he became aware of it.

And determinism implies function; all of our decisions are produced by biological reactions. You don’t call your neurons good or bad, but rather functional or non-functional. Either they work or they don’t.

1. This is the best definition theoretically
2. My interp circumvents the same moral debates that we have every time like util v deont. Fewer philosophical theories link into my definition. I allow us to talk about the function of the system which is geared towards the institutions’ real world purpose as opposed to something discussed in an ivory tower.
3. It’s a one to one burden structure; I prove consistency; you prove inconsistency, avoiding the debate on who gets prohibition ground, permissibility, etc. Also these policies were developed as a means to reduce crime, so there’s lit on both sides, ev indicts etc. This is also a reason why even if the function of the system is something else, you should prefer that we use a standard of minimizing crime, because that is a fair interpretation.

Under moral definitions reciprocity can fluctuate because its non specific enough to allow for hundreds of theories, each increasing the possibility of a bad division of ground since each has different literature bases that may or may not flow to one side. For example: deontology has set views on given issues because it promotes absolute rules.

Also, philosophy is bad

Hobbes and Nietzsche may have inspired Columbine. Langman ’08:

“ Influences on the Ideology of Eric Harris” *Peter Langman, Ph.D. schoolshooters.info*

Other quotes from Hobbes may have struck [Columbine killer] Eric [Harris] as he planned his attack. For example, “All men in the state of nature have a desire and will to hurt.”84 If Eric read this, it must have validated his own sadistic desires. Similarly, Hobbes wrote, “In the natural state of men … *a sure and irresistible power confers the right of dominion and ruling over those who cannot resist*.”85 Eric’s reading of this passage would have justified his grandiose desire to have power over others. The same is true of the fol­lowing passage:

Nature hath given to *every one a right to all*; that is, it was lawful for every man, in the bare state of nature … to do what he would, and against whom he thought fit.86

Thus, in a state of nature, people could do whatever they wanted to others. Eric liked to think of himself as someone outside of society, someone living according to his natural in­stincts. As such a person, his reading of Hobbes may have told him that he had the right to do whatever he wanted to the people in his life. The idea that “a sure and irresistible power confers the right of dominion” brings us to a discussion of Ni­etzsche, who coined the phrase “a will to power.”

As one who celebrated the will to power, it is perhaps natu­ral that Nietzsche expressed disdain for weakness: “What is bad? Everything that is born of weakness.”91 Eric, too, expressed disdain (and more) for people he viewed as weak. He noted that he once vandalized the house of a “weakling.”92 He also wrote, “I want to grab some weak little freshman and just tear them apart like a wolf, show them who is god.”93 Here we see his will to power and his hostility toward the weak. Along the same lines, Eric would have read the following quotes with approval: “Life itself is *essentially* appropriation, injury, conquest of the foreign and weaker, oppression, harshness” and “Life always lives at the expense of other life.”94… Eric might have been thrilled by Nietzsche’s idea of the “beautiful terribleness” of a crime: “The lawyers defending a criminal are rarely artists enough to turn the beautiful terrible­ness of his deed to his advantage.”117 After all, Eric had written, “imagine THAT you fuckers, picture half of Denver on fire just from me and Vodka [Dylan’s nickname]. Napalm on sides of skyscrapers and car garages blowing up from exploded gas tanks … oh man that would be beautiful.”118

Nietzsche’s writings could help explain a puzzling aspect of Eric’s thinking – his mocking disdain for Christianity. Though it is not unusual for adolescents to stray from their religious upbringing, Eric’s hostile comments about Jesus are extreme: “Jesus is dead … get over it!!!”119 and “Go Romans! Thank God they crucified that asshole.”120 For a boy from a Catholic fam­ily, these comments are hard to comprehend. Perhaps Eric was influenced by Nietzsche’s scathing comments about Christian­ity. Though it is impossible to find one passage that sums up Nietzsche’s attitude toward Christianity, the following quote demonstrates how harsh he could be: “I call Christianity the one great curse, the one enormous and innermost perversion … I call it the one immortal blemish of mankind.”121… Eric’s writings are notable for the contempt he expresses toward people. He seemed to derive great pleasure from despis­ing others. Perhaps this attitude found support in his reading of Nietzsche: “What is the greatest thing ye can experience? It is the hour of great contempt,” and “I love the great despis­ers.”126

The nature of philosophy ensures that it’s abstract. Posner 98

The Problematics of Moral and Legal Theory, Richard A. Posner [Chief Judge, United States Court of Appeals for the Seventh Circuit; University of Chicago Law School.], Harvard Law Review, Vol. 111, No. 7 (May, 1998), pp. 1637-1717

Such overgeneralization is inevitable; for the canonical philosophers are difficult to understand. Many wrote obscurely, or in foreign languages, some of them "dead" languages that cannot be fully understood even by scholars. They wrote in social contexts vastly different from modern-day America, and because meaning is contextual, the interpretation of their writings may require immersion in history, as well as linguistic mastery. The mastery of the classic texts of moral philosophy, and of the methods of analysis employed in them, is the work of a lifetime. Little time is left for investigating the particulars of any concrete moral issue, which requires relating it to the social conditions that either make it an issue or remove it from the agenda of contestable moral issues. Many moral philosophers hope to extract from the canonical texts some overarching concept, such as duty or human flourishing, and use that to deduce the answers to contempo- rary moral questions. ("What Plato would allow."65) So they are apt to say such things as, "[T]hefirst step towards a substantive account of justice must be to establish some inclusive principles of justice."66 Other moral philosophers, those who think like canon lawyers or common law lawyers, hope to use the method of casuistry or analogy to move from our settled moral intuitions to cases in which our intui- tions give out. The hope of the textmongers, whether they are moral universalists or moral particularists (that is, whether they think that little or that much local context must be added to the general principles from which they start), is the more forlorn. To those not overly impressed by the prestige of the classics, the idea that Plato, Aristotle, Kant, Hegel, or even Mill holds the key to solving any modern social problem is as implausible as thinking that the Bible does. Religious, philosophical, and literary texts have value as consolation and inspiration, as stimuli to reflection, and as sources of wonder and pleasure. And the modern academic philosopher, more properly the historian or philologist of philosophy, has therefore a useful role to play in explaining what the classic philosophers were trying to say, a role akin to translation and to literary and artistic criticism and scholarship. The philosophical clas- sics, and commentary that makes them intelligible to a modern reader, thus are valuable. But they do not contain answers to, or methods for answering, contemporary moral questions.

Philosophical education distances us from the truth, potentially allowing us to justify and adopt negative beliefs. Posner 2

The Problematics of Moral and Legal Theory, Richard A. Posner [Chief Judge, United States Court of Appeals for the Seventh Circuit; University of Chicago Law School.], Harvard Law Review, Vol. 111, No. 7 (May, 1998), pp. 1637-1717

Third, academic moralism cannot succeed in its aim of improving human behavior, for a number of reasons: 1. Knowing the moral thing to do does not furnish a motivation for doing it; the motivation has to come from outside morality. 2. The analytical tools employed in academic moralism - whether moral casuistry, or reasoning from the canonical texts of moral philosophy, or reflective equilibrium - are too feeble to override either narrow self-interest or moral intuitions. As a result, academic moral- ism is helpless when moral intuitions clash or self-interest opposes them, and otiose when there is no such conflict. So "right answers" moral realism is hopeless, just like the metaphysical kind. And academic moralists have neither the rhetorical resources nor the detailed knowledge of social reality that might enable them to persuade with- out good methods of inquiry and analysis. 3. There is so much disagreement among academic moralists that the reader can easily find a persuasive rationalization for his preferred course of conduct, whatever it is. 4. The character of a modern academic career in philosophy is not conducive to moral innovation or insight. 5. Exposure to moral philosophy may actually lead people to behave less morally by making them more adept at rationalization.

And philosophers aren’t incentivized to come up with good arguments anyway.

Hallquist 11, Chris Hallquist, Philosophy is Dysfunctional, 2011

Here’s why:while philosophers pride themselves on caring about producing good arguments and getting at the truth, if they don’t agree what arguments are good or what the truth is, they can’t reward each other for doing either of those things. So philosophers aren’t under any pressure to get anything important right, and I don’t think they’re under any significant pressure to actually produce good arguments. What they are under pressure to demonstrate cleverness, and demonstrate being in tune with philosophical fads and cliques.¶ Pressure to be clever is a problem because clever does not equal right. Clever can be the enemy of right.As a very wise contributor to Less Wrong[**once said:**](http://lesswrong.com/lw/2pv/intellectual_hipsters_and_metacontrarianism/) **“**Any idiot can tell you why death is bad, but it takes a very particular sort of idiot to believe that death might be good.”So if you’re worried about being mistaken for just any idiot, take the position that any idiot can see is wrong.¶ Consider an example that seems too silly to be real. If I hold up two fingers and ask “how many fingers am I holding up?” saying “two” will not demonstrate cleverness. It only shows that you are conscious, speak English, and can see straight. If you want to be clever, you might say something like, “I don’t know how many fingers you’re holding up, because who really knows anything, anyway?”¶ Not that that’s actually a very clever answer. It’s sophomoric. But consider this answer: “The problem of external world skepticism has yet to be adequately addressed by philosophers. Many contemporary philosophers simply dismiss it, but I think these dismissals fail to adequately grapple with it, or even understand the real nature of the problem. However, I also believe that recent work in philosophy has made considerable progress towards solving the problem.” There, now we’re talking. So much better than just saying “two.”¶

Lastly, philosophy is irresolvable – these claims have been argued for thousands of years making it unlikely we’ll get anywhere in 45 minutes.

This is also a reason to

1. prefer a consequentialist standard since all potential end states of the resolution link, encouraging more contention debate and less framework debate.
2. adopt a definition of ought as function; since underneath a moral definition we hypothesize about what is right, but function is comparatively descriptive so its rooted in tangible reality.

And even if philosophy in general is good, in a debate setting

1. we’ve already received those benefits by having these debates a million times; contention allows for discussion of new issues
2. it has devolved into blippy assertion wars or skep triggers that circumvent talking about the theories in detail. Frameworks are often taken out of context, making them inadequate representations of the actual arguments.

And the way that we delineate between definitions is how fair or educational they are. That’s how we decide in a T debate, that’s how we should decide now. Further, fairness comes prior to substantive issues. Fairness is important because your ballot asks who did the better debating, not the better cheating, which is impossible to evaluate if someone has a structural disadvantage. Even if your framework is logically true, we should break the rules and adopt mine because it better suits the needs of a debate round.

But, even if we’re looking to other definitions or substantive warrants,

Objective truth is elusive; to find any truth at all we must settle for what is effective for us to believe.

James

Pragmatism: A New Name for Some Old Ways of Thinking - William James 1907. Print

Take, for instance, yonder object on the wall. You and I consider [the object on the wall] to be a “clock.” Although no one of us has seen the hidden works that make it one. We let our notion pass for true without attempting to verify. If truths mean verification-process essentially, ought we then to call such unverified truths as this abortive? No, for they form the overwhelmingly large number of the truths we live by. Indirect as well as direct verifications pass muster. Where circumstantial evidence is sufficient, we can go without eye-witnessing. Just as we here assume Japan to exist without ever having been there, because it *works* to do so, everything we know conspiring with the belief, and nothing interfering, so we assume that thing to be a clock. We use it as a clock, regulating the length of our lecture by it. The verification of the assumption here means its leading to no frustration or contradiction. Verifiability of wheels and weights and pendulum is as good as verification. For one truth-process completed there are a million in our lives that function in this state of nascency. They turn us towards direct verification; lead us into the surroundings of the objects they envisage; and then, if everything runs on harmoniously, we are so sure that verification is possible that we omit it, and are usually justified by all that happens.

Judging how useful something is for us to believe requires evaluation of consequences. We can only deem if something was good for us or not after seeing how effective it was, how it turned out.

And, consequences are relevant under any theory. The only way that we know an action is good or bad is through its results. A violation of a constraint might be bad because it results in treating someone as a means. Talking about how we can only know intent does nothing for you: consequentialists concede this, and speculate about end states based on the aims of the actions.

### Contention

I contend affirming reduces crime.

Norway has extremely low murder rates and drastically low recidivism rates despite its rehabilitative approach.

Jilani 11, Zaid Jilani [As The Right Bemoans Norway’s Criminal Justice System, It Is](http://thinkprogress.org/justice/2011/07/25/277771/norway-is-safe/) One Of The Safest Countries On Earth

Many right wingers, particularly those in the United States, are now bemoaning Norway’s criminal justice system, noting that the country uses a maximum sentencing law that typically only allows prisoners to be [jailed for 21 years](http://timesofindia.indiatimes.com/world/europe/Norway-killing-suspect-may-get-21-years-in-jail/articleshow/9342527.cms) (although prisoners [can be held](http://deathpenaltynews.blogspot.com/2011/07/norwegians-protest-lax-penalty-for.html) for additional five-year sentences if they are deemed dangerous). “Most murderers in Norway spend just 14 years behind bars. The terrorist is 32 years old. He will get out when he’s 53. That means [he’s serving about 3 months](http://bigpeace.com/elcid/2011/07/24/norway-terrorist-can-only-be-sentenced-to-21-years-max-will-be-out-by-age-53/) for every person he murdered. Justice?” asked a blogger at Big Peace.¶ Yet before Americans rush to judge Norway**’s** criminal justice system — which [relies far less](http://www.time.com/time/magazine/article/0,9171,1986002,00.html?xid=huffpo-direct) on punitive measures than ours and that has a strong focus on rehabilitation — they should look at the results it produces. Norway is one of the safest countries on earth, boasting some of the world’s lowest crime rates:¶ - Norway Has Some Of The Lowest Murder Rates In The World: In 2009, Norway had [.6 intentional homicides](http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-10-058/EN/KS-SF-10-058-EN.PDF) per 100,000 people. In the same year, the United States had [5 murders](http://www2.fbi.gov/ucr/cius2009/data/table_01.html) per 100,000 people, meaning that the U.S. proportionally has 8 times as many homicides.¶ - Norway’s Incarceration Rate Is A Fraction Of That Of The United States: 71 out of every 100,000 Norwegian citizens is incarcerated. In the United States, [743 out of every 100,000 citizens](http://www.kcl.ac.uk/depsta/law/research/icps/worldbrief/wpb_stats.php) was incarcerated in 2009. The U.S. has the world’s highest incarceration rate.¶ - Norway’s Prisoner Recidivism Rate Is Much Lower Than The United States’: The recidivism rate for prisoners in Norway is [around 20 percent](http://www.time.com/time/magazine/article/0,9171,1986002,00.html#ixzz0n9t8l6FT). Meanwhile, it’s estimated that 67 percent of America’s prisoners are re-arrestedand [52 percent](http://www.infoplease.com/ipa/A0933722.html) are re-incarcerated.

It’s not just in Norway, it worked in countries all throughout Europe, prefer my meta-analysis.

Illescas 01 Santiago Redondo Illescas\*, Julio Sánchez-Meca\*\* and Vicente Garrido Genovés\*\*\* Treatment of Offenders and Recidivism: Assessment of the Effectiveness of Programmes Applied in Europe, 2001 http://www.psychologyinspain.com/content/reprints/2001/6.pdf

This line of investigation has continued to develop in the 1990s. Throughout the decade, a number of meta- analytic studies both in North America and, later, in Europe, were carried out in order to assess the degree of effectiveness of treatment techniques applied to offen- ders (Andrews, Zinger, Hoge, Bonta, Gendreau, and Cullen, 1990; Antonowicz and Ross, 1994; Cleland, Pearson and Lipton, 1996; Garrett, 1985; Gensheimer, Mayer, Gottschalk, and Davidson II, 1986; Gottschalk, Davidson II, Gensheimer, and Mayer, 1987; Gottschalk, Davidson II, Mayer and Gensheimer, 1987; Hall, 1995; Izzo and Ross, 1990; Lab and Whitehead, 1988; Lipsey, 1992; Lösel and Köferl, 1989; Quinsey, Harris, Rice, and Lalumière, 1993; Redondo, 1994; Redondo, Garrido and Sánchez-Meca, 1997; Wells-Parker, Bangert- Drowns, McMillen and Williams, 1995; Whitehead and Lab, 1989). Taken as a whole, the average effectiveness of programmes applied to offenders ranged from 5% to 18%. In the European context the meta-analysis by Redondo *et al.* (1997) integrated the results of 57 pro- grammes carried out in different countries with young and adult offenders and obtained an overall effect size of r=0.150 for the set of treatments applied and results eva- luated (which included different variables, such as the improvement of the institutional environment, school participation, the reduction of recidivism, etc.). This result demonstrates that treatment groups did 15% better than control groups. That is, in terms of the recidivism variable, there was a decrease of 15% with respect to what might have been expected had the subjects not received treatment.

We used a variety of information channels in order to gain access to studies of European treatment program- mes. First of all, the computerised data bases *Criminal Justice Periodical Index, Pascal* and *PsycLIT* were con- sulted. To this end the key words: *delinquen\*, offender, inmate, probation, treatment, rehabilitation, interven- tion, parole,* and *therap\** were used. Secondly, a manual search of 55 specialised (mainly European) journals was conducted. We also wrote letters requesting studies on treatment programmes involving offenders. These let- ters were sent to a total of 118 specialised researchers and 82 European institutions working in this field. In addition, all the bibliographical references contained in the previously-selected studies were examined by means of an *ancestry approach (cursna),* with a view to finding other relevant studies. The literature search covered the period from 1980 to 1991, and included both published and unpublished material.¶ In order to be included in the meta-analyses, each study had to meet the following requirements: (a) it must have been applied to subjects under the control of the crimi- nal justice system (e.g., young or adult offenders), (b) it must have used some treatment strategy for a certain period of time, (c) it must have employed a methodolo- gical design allowing comparison between control and treatment groups or pre-test/post-test measures, and finally (d) it must have included some recidivism mea- sure. A total of 29 studies referring to 32 programmes were selected, all of these having met the requirements outlined above. The total sample of subjects involved in these programmes was 5,715 (see Table 4).¶

And Lipsey and Cullen aggregated meta-analyses studying various rehabilitative methods and meta-analyses studying punitive methods and directly compared the two. The results go overwhelmingly aff.

Lipsey and Cullen 07, Mark W. Lipsey and Francis T. Cullen The Effectiveness of Correctional Rehabilitation

In this review we attempt to catalog every meta-analysis conducted on studies of correctional interventions and summarize the most general and robust of their collec- tive findings. Some of these meta-analyses have broad scope, whereas others are narrow. Some are elaborate and some are relatively simple. Some are well done and a few are rather inept. Across this diversity, however, there is striking consistency on two key points. First, every meta-analysis of studies that compare recidivism outcomes for of- fenders receiving greater versus lesser or no sanctions has found, at best, modest mean re- cidivism reductions for the greater sanctions and, at worst, increased recidivism for that condition. Second, every meta-analysis of large samples of studies comparing offenders who receive rehabilitation treatment with those who do not has found lower mean recidivism for those in the treatment con- ditions. Moreover, the least of those mean reductions is greater than the largest mean reductions reported by any meta-analysis of sanctions. In addition, nearly all the meta- analyses of studies of specific rehabilitation treatments or approaches show mean recidi- vism reductions, and the great majority of those are greater than the largest reductions found in any meta-analysis of sanctions.

#### More meta-analyses. Cullen and Gendreau 2k

Cullen, Francis T. [Distinguished Research Professor of Criminal Justice with the University of Cincinnati.], and Paul Gendreau [Director, Centre for Criminal Justice Studies, and Professor of Psychology with the University of New Brunswick at Saint John]."Assessing Correctional Rehabilitation: Policy, Practice, and Prospects." Criminal Justice 3 (2000): 109-75.

It is useful to place the issue of correctional effectiveness in the broader context of whether planned interventions are capable of improving problematic human behavior in general (e.g., mental health, educational performance, developmen- tal difficulties). Might it be, as some have vehemently suggested, that human service interventions just do not work? In a review of 302 meta-analyses, Lipsey and Wilson (1993) addressed this issue. They discovered that across an array of psychological, educational, and behavioral treatments, there was a pos- itive relationship between interventions and outcome measures, with problem behaviors targeted for change in treatment groups reduced by about 25 percent compared with control groups. “The number and scope of effective treatments covered by this conclusion are impressive,” they observed, “and the magnitude of the effects for a substantial portion of those treatments is in a range of prac- tical significance by almost any reasonable criteria” (p. 1199).¶ Even if interventions are effective with a range of other behaviors, the question still remains whether they are able to reduce delinquent and criminal behavior. Lipsey and Wilson (1993) listed 10 meta-analyses that were conducted on eval- uations of treatment programs for offenders. In all cases, a positive effect size was reported. There was a tendency, however, for the treatment effect size for offender interventions to be lower than that for interventions targeting other outcomes for change. The lower effect size may reflect the difficulty of chang- ing antisocial conduct and/or the lower quality of interventions with offenders (Losel 1995). Still, it is instructive to reiterate that every meta-analysis of offender treatment indicated that programs, in the aggregate, reduced problem behavior. As such, there is no evidence that offenders cannot be rehabilitated.¶ Losel (1995) has conducted the most comprehensive assessment of the meta- analyses of offender rehabilitation programs. In a review of 13 meta-analyses published between 1985 and 1995, Losel found that the mean effect size ranged from a low of 0.05 to a high of 0.18. This finding has been confirmed in an updated review by Redondo, Sanchez-Meca, and Garrido (1999, 252). The con- sistency of the positive effect of treatment in these meta-analyses is important because it suggests that this result, at least in broad terms, is not dependent on the sample of studies selected and coding decisions made by individual authors. Indeed, even meta-analyses conducted by scholars unsympathetic to rehabilita- tion produced positive effects (see Whitehead and Lab 1989). Losel estimates that across all the meta-analyses, “the mean effect size of all assessed studies probably has a size of about 0.10” (p. 89). Using Rosenthal’s (1991) BESD sta- tistic, this would mean that the recidivism rate for the treatment group would be 45 percent, while the rate for the control group would be 55 percent.

And, recidivism outweighs deterrence. Severity of punishment means nothing, I give empirical studies and analytic warrants. Tonry 06 Tonry, Michael [Sonosky Professor of Law and Public Policy and director of the Institute on Crime and Public Policy at the University of Minnesota Law School, and senior fellow in the Netherlands Institute for the Study of Crime and Law Enforcement]. *Purposes and Functions of Sentencing, Crime and Justice*. University of Chicago. 2006.

Current knowledge concerning deterrence is little different than eighteenth-century theorists such as Beccaria [1764] 1995) supposed it to be: certainty and promptness of punishment are more powerful deterrents than severity. This does not mean that punishments do not deter. No on doubts that having a system of punishment has crime-preventive effects. The important question is whether changes in punishments have marginal deterrent effects, that is, whether a new policy causes crime rates to fall from whatever level they would otherwise have been at. Modern deterrent strategies, through sentencing law changes, take two forms: increases in punishments for particular offenses and mandatory minimum sentences (including “three-strikes”) laws. Imaginable increases in severity of punishments do not yield significant (if any) marginal deterrent effects. Three National Academy of Science panels, all appointed by Republican presidents, reached the conclusion (Blumstein, Cohen, and Nagin 1978; Blumstein, Cohen, Roth, and Visher 1986; Reiss and Roth 1993), as has every major survey of the evidence (Cook 1980, Nagin 1998, 1999; von Hirsch et al. 1999; Doob and Webster 2003). This is also the belief, in my experience, of most experienced judges and prosecutors. There are a number of good practical reasons why this widely reached conclusion makes sense. First, serious sexual and violent crimes are **generally** committedunder circumstances of extreme emotion, often exacerbated [or] by **the** influence of alcohol ordrugs. Detached reflection on possible penalties or recent changes in penalties seldom if ever occurs in such circumstances. Second, most minor and middling and many serious crimesdo not result in arrests of prosecutions; most offenders committing them, naively but realistically, do not expect to be caught. Third, those who are caught and prosecuted almost always are offered plea bargains that break the link between the crime and the prescribed punishment. Fourth, when penalties are especially severe, they are often, albeit inconsistently, circumvented by prosecutors and judges. Fourth, for many crimes including drug trafficking, prostitution, and much gang-related activity, removing individual offenders does not alter the **structural** circumstances conducing the crime. Fifth, even when one ignores all those considerations, [Lastly, deterrence] the idea that increased penalties have sizable marginal deterrent effects requires heroic and unrealistic assumptions about “threat communication,” the process by which would-be offenders learn that penalty increases have been legislated, or are being implemented.

### Underview

1. Drop the arg, not the debater on topicality questions. This doesn’t just refer to definitions debate but any arguments about what constitutes a legitimate aff on this topic or what the aff has to defend specific to this resolution. This doesn’t apply to theory interpretations, which are distinct from topicality interps based on the resolution.
2. Constructive ground. There are an infinite number of T interps you could make to exclude my aff. Not fair if neg can always utilize a strategy that automatically results in an aff loss.
3. Discussion of any topic is useless without context. I had to choose something to generate consistent ground. Thus, I’m not accountable for the definition I chose.
4. A definition is not an advocacy. Fairness holds debaters responsible for the positions that they chose to endorse, but a definition modifies my stance but doesn’t determine it.
5. The purpose of the resolution is to delineate offense for both sides. T, thus, should just be used to make certain categories of offense relevant, not to exclude the debater.
6. Presume aff- strategy skew- I speak in the dark. You read new framework and definitions to exclude 6 minutes of my offense. Further, I have to give a 4 minute rebuttal after your 7 minute speech. Also means no neg RVIs because you have 6 minutes to cover theory. You don’t need it and it puts you ahead since you win on something that you can develop infinitely more.
7. No PICs since they scoop constructive ground – 6 minutes of original offense mooted.
8. Reject theory where the violation is contingent on something not in my aff, like spec theory or a theory interp that my aff is not contingent on, like aim of punishment. The neg gets an automatic theory out in the world of bidirectional theory, meaning the nullification of my constructive ground and an automatic avenue to the ballot.
9. Retribution is not proportional.
10. There is a tendency to judge people’s actions based on their character, as opposed to the actual circumstances.

Dripps 03 Donald A. Dripps, Professor of Law and Criminal Procedure at University of Minnesota Law School. “Fundamental Retribution Error: Criminal Justice and the Social Psychology of Blame.”

Psychological research indicates thatobserverstend tohold the individual, rather than the situation, responsible for the individual’s action.**20** Althoughpeople tend to attribute their own misconduct to external constraints [but], theytend toattribute the behavior of others to personality rather than context. Psychologists regard this tendency**—** variously termed the correspondence bias or fundamental attribution error (henceforth FAE)**—**as firmly established.21 It may not prevail, or prevail only to a lesser extent, in non-Western cultures. There is no consensus about what causes FAE. But about the basic phenomenon there is little doubt.It is commonsensical for observers to conclude that other individuals chose as they did, not because of the situations those individuals were in, but because of the kind of people they are. Common sense, however, turns out to be wrong. As a descriptive matter, FAE[This] helps to explainmany puzzling features of existing criminal law. For example, theorists have experienced considerable difficultyexplainingthe more lenient treatment accorded failed as compared to successful [criminal] attempts**.** The distinction may reflect a cognitive tendency rather than a normative anomaly;decision makers mayirrationally butconsistently attribute failure and success to the actor rather thanto thecircumstances**.** The same type of tendency may in part explain both the felony murder doctrine and the expansive view taken in some of the proximate cause cases.

This is a psychological phenomena that will manifest itself regardless of situation, and is not contingent on implementation.

B. Its implication is that the neg overpunishes.

Dripps 2

[This] has troubling implications for the retributivist’s project of rationally assessing blameworthiness. The character-based approach directly embraces the project of inferring personality traits from behavior. This is the very inference that the psychological research suggests human observers will make too readily. Consider, in this regard, the Fidel Castro essays, the quiz master experiment, or the foul shots taken in a dimly lit gymnasium.184 In these experiments, observers held actors responsible despite the observers’ knowledge of very serious situational constraints. Indeed the term “correspondence bias” refers precisely to the tendency to associate behavior with a corresponding trait.¶ In the choice approach, the problem recurs. FAE predisposes observers to exaggerate both volitional capacity and fair opportunity to resist situational pressure. A choice theorist who does not repudiate situational excuse altogether admits that some bad choices are not blameworthy. As a result of FAE, however, in deciding how hard a choice the actor faced, observers will tend to attribute the choice to the actor’s character rather than the situation.**¶** FAE tends to magnify the causal significance of the defendant’s conduct relative to other factors. Observers predisposed to believe that the world is just need to identify personal, rather than impersonal, causes for negative events.185 Compounding this tendency is the so- called hindsight bias, which inclines observers *ex post* to believe that actual events were probable *ex ante* even when they were not.186 This, in turn, inclines observers to infer intention, knowledge, or recklessness from the foreseeability of events that were in fact not foreseeable.**¶** Harm-based retributivists, with their focus on causing or risking harm, invite the tendency of observers to commingle fault with causation, amplified by the hindsight bias. A purely subjectivist culpability theorist, by contrast, considers the actor eligible for punishment based on his subjective awareness of wrongdoing. This may disadvantage the government unduly, as those who focus on the person rather than the situation interpret failed attempts as innocent accidents and harmless recklessness as due care.¶ As the utilitarians have pointed out, retributivists havesome difficulty in determining the amount of punishment required by any given instance of culpable wrongdoing.187 To the extent that retributivists rely on intuition or the sense of the community to measure proportionate punishments, FAE suggests that officials attempting to follow retributive theory will overpunish. Their intuitions will tend to overassess personal as opposed to situational factors at the time of the wrongdoing.¶ This is especially likely for those retributivists who root the justification of punishment in distributive justice. On that account, the criminal deserves punishment for deviating from society’s scheme of mutual restraint. Yet if many people would have acted just as the defendant did given the same situation, the defendant hasn’t really helped himself to any unfair advantage. If that really is why punishment is deserved, retributivism in practice will dish out far more punishment than fair play can justify.**¶**

And aim of punishment doesn’t take this out – Dripps agrees with this interpretation and still rejects retributive justifications for this reason. When aiming to enact retribution, we go overboard.

And, rehab solves this because rehab is tailored to specific situations.

Smith, University of New Hampshire Department of Philosophy, http://pubpages.unh.edu/~nicks/pdf/Rehabilitation.pdf

Because rehabilitation believeseach offender has different problems to overcome, her program for reform should be fashioned accordingly**,** just as a doctor prescribes treatment for a sick patient. **Thus** each sentence is individualized andtwo convicts committing the same crime may receive entirely different sentences.Someone driven to steal because of drug addiction**,** forexample**,** will require different treatment than an immigrant who shoplifts because she cannot findwork adequateto feed her family**.** Rehabilitative punishment is tailored to the offender rather than to the crime.

At least psychologists make their judgments based on a semblance of a scientific metric, but judges and juries have no such training – yours is based on opinion at best.

## Framework Frontlines

### AT Alternative Functions

#### AT System for Culpability

1. That we incarcerate criminals at all proves preventing crime is the most important issue. If we were just trying to assign blame, we would just declare criminals guilty and then send them home.
2. Not textual. Determining responsibility might be the function of the trial process, but the resolution refers to the criminal justice system as a whole.

#### AT Treat As Rational

1. This doesn’t explain the system’s genesis

* 1. Inefficient – the government wouldn’t spend millions of dollars maintaining a system if it were merely to recognize rationality
  2. Clearly not the government’s aim – the government doesn’t have the resources to recognize individual rationality. It has to see the populace as a collective

1. Not true – people aren’t rational when they commit crimes since they’re committed in the heat of the moment or under the influence of alcohol or drugs.

#### AT Innocent Before Proven Guilty/We would just lock them up

1. T: proves consequentialism. This process is impact-based
   1. Want to give the trial perceived legitimacy to appease public opinion who would be outraged otherwise
   2. Incarcerating the innocent has bad impacts since it negatively affects his or her quality of life and breeds resentment
   3. Life wouldn’t be peaceful for the public otherwise for fear of instant incarceration
2. If we cared more about the fairness of the process, we
   1. wouldn’t place the fate of an individual in the hands of 13 random jurors
   2. would have more drawn out procedures that might have prevented the massive amount of innocents that have been convicted. Also that individuals are incarcerated during the procedure even though they’re potentially innocent means safety is a priority.

#### AT Revenge

1. The state acts out of self interest thus
   1. Payback wouldn’t bring any benefit since the government isn’t involved in individual crimes and has nothing to gain through revenge
   2. Would be a waste of resources to incarcerate solely for the pleasure of revenge
2. The government doesn’t have intentions so it can’t be vengeful.
3. Concedes consequentialism since any vengeful intentions would be geared towards ensuring crimes don’t happen in the future and send a message that crime is bad
4. Not a fair interpretation since if the framework is who better enacts revenge you win automatically since it’s the definition of retribution. Reciprocity is important because your ballot asks who did the better debating which is skewed if someone is cheating.

#### AT Norm Setting

1. Terminates in my standard
   1. sending a message that crime is bad literally concedes that crime is the thing we are setting out to prevent.
   2. concedes consequentialism because the message is solely to enact the overall end of a safe society
2. Begs the question of if you’re winning deterrence offense to prove that you do send a message. If I win crime offense that outweighs, I deny this.

#### Reducing Crime is the Greatest Function

1. The system originated as a response to increased crime, so my arguments are grounded in history as opposed to speculation about what the function was.
2. Safety is empirically a precondition to other state values – airport security might violate the right to privacy but its justified as a way to prevent catastrophe. Crime is the biggest and most immediate harm to the populace that the justice system has jurisdiction over.

### Macintyre Frontlines

#### AT Macintyre isn’t a Definition

It’s a grammatical truth, not a normative one

* 1. The evidence literally says so
  2. He’s talking about word usage – how to use “ought” in a sentence
  3. It’s descriptive – he’s not persuading an audience this is how they should behave
  4. Even if it’s not a definition, it’s still an interpretation of the resolutional statement, and must be treated as such theoretically

#### I don’t need a definition

* 1. Only reason why I would is because of predictability. Proves that having a definition is not a threshold, but as an internal link into fairness, and ground claims outweigh because predictability is only relevant as an enhancer on ground.
  2. Defining words objectively isn’t as important in a debate context in which words need unique meanings to set up parameters for a game – arguments need to be on a fair playing field before they can be appropriately compared.

#### AT It’s Harder To Prove Inconsistency

1. Consistency is harder since it requires the burden of proof. I have to prove that I am consistent with function, you prove I’m not.
2. A semantic distinction at best – proving inconsistency is just proving the opposite of what I have to prove, which is just proving consistency with something else.
3. Even if in a vacuum proving inconsistency is harder, for this specific issue, I contextualize why there are equal arguments for both sides

### Standard Frontlines

#### AT Crime Lit only flows aff

1. Both rehab and retribution have been advocated as reduction policies in the past, so there has to exist reasons why retribution is good to have justified implementing it. Also retribution has been the mindset ever since the ‘70s; that it has been so durable and that its used in the squo means thee’s better ground.
2. You get 3 avenues of attack – DAs to the aff, a different advocacy like a CP, or a K. Even if you have fewer arguments, they’re spread out over three levels which checks back the advantage.
3. Politics ground is really hot right now because of gun control and recent shootings – there’s a diversity of scenarios that turn aff advantages that are way less predictable with way more recent literature
4. Recidivism lit flows aff, not crime lit. Deterrence lit flows neg and the neg can weigh that. Also, even if there’s a lack of empirics, deterrence is intuitive, so if analytics outweigh empirics, the neg wins every time.
5. Different types of rehab provide enough layering. Even if rehab generally flows one way, you can run disadvantages to specific types of rehabilitation and then weigh it against the aff.
6. No way to prove that the topic lit is one way or another. If there’s a wide base of literature for one side, then it’s a prevalent issue that has probably been contested and analyzed.

#### AT Negs are only means based

1. The aff is not contingent on a definition of retribution as means-based – this is a constriction you’ve offered yourself. Retribution in the context of the aff are harsh policies because that’s what I’m indicting.
2. This is just a description about how retributive authors justify their points – it doesn’t limit it to only being justified in this manner. Objectively something can lead to good consequences even if its believers think it’s a good in and of itself.
3. Even intrinsic goods still have to be good for an external reason – rationality is good, but only because knowledge is important, or useful. Retribution is still justified on its end of bringing someone to justice or holding one culpable, even if its “instrinsic.”
4. If negs are only means based, that makes it reciprocal – you can’t win my aff underneath my terms, but because I’m inherently ends based, I can’t turn your neg either.

[You can

* 1. re-interpret function and link offense through that lens; that way we both have to win our interpretations and offense back to them.
  2. interpret the standard through a non-consequentialist lense – i.e. not “minimizing”; that part of the aff is up for contestation]

### Phil Bad Frontlines

#### AT Talking About Purpose is Philosophy

1. There’s little moral theorizing since the purpose is certain – we created the institution so there’s a set function.
2. My theory is forward looking – I ask “how do we utilize this system like it is meant to be utilized” as opposed to vacuous questions like “why are we here?”
3. Even if the definition of function allows for philosophy, my standard doesn’t since underneath a consequentialist framework we are incentivized to turn the contention level and have an empiric debate. Kick the definition but not my framework.

#### AT Phil Not Taught in Schools

1. T: Means we get education other students aren’t getting – phil in debate puts us on different mental wavelengths that inspire introversion, and inability to communicate in discussions with our peers.
2. T: Better to leave it until college to prevent misunderstandings of the material that become impossible to correct later on.
3. T: That it’s not taught in high school indicates it’s not fundamental material; phil shifts the discussion from topics that are more relevant.

#### Applied Philosophy outweighs

* 1. Text since the resolution is not a general philosophical premise but an applied ethics question
  2. Real world since philosophy isn’t valuable intrinsically, but instead for its application
  3. Specificity – deep knowledge on an ethical theory and the nuances of its application is better than rehashed metaethics.

#### Topic Education Outweighs

* + 1. Time constraints. We have only 2 months on a topic and this is the last tournament so last opportunity to talk about this issue. Supercharged since topics are picked for real world relevance – we all encounter the criminal justice system at some point. It is insulting to the victims of real world injustice that we replace genuine discussion of their plight with sophistry.
    2. Breadth. Topic debate encourages new research, not recycling that Velleman card about reasons and the same Katsafanas neg all year. Only forcing topical discussion can provide respite from recycled nonsense.

#### AT Clash

1. T: Topic education allows us to see both sides of an issue better

* 1. Topics are chosen based on if they provide clash
  2. Contention debate is geared towards the aff and the neg being on opposite sides of a specified issue

1. T: Frameworks overlap – they might not clash if they’re in the same vein of philosophy.
2. Tricks like epistemology and meta-ethics means that the issues themselves are circumvented.

#### AT Shammas

1. Greed – Congressional argument’s aren’t due to lack of education, but self-interest.
2. Paralysis- examining all sides of an issue philosophically takes more time than Congressmen can afford.
3. Certain philosophies are more intuitive to certain people, leading to the same problems of over-confidence in one’s beliefs – only difference is conflicts become more complex

#### AT Phil Bad Warrants Assume Consequentialism

1. All theories set out to find truth so inability to come to correct conclusions is an impact underneath any standard. My warrants are why you lead to backwards views of truth that aren’t still relevant today, and education that will prevent us from finding the truth at all.
2. Death is bad under any framework, so even if its not the strongest link into a particular theory, a pre-fiat risk of death should still come first because it actually has the chance to affect us.
3. It doesn’t link into consequentialism, it links to education, which comes on a higher level since theory precedes.
4. Non-unique – you assume phil good. Whether being impact-justified is even bad assumes that we need to link our arguments into a philosophy, or that we should be open to alternative frameworks.

#### AT Test Scores

1. Correlation not causation – smart people think that philosophy is a good major. They do well on exams because they are good test-takers, not because of their philosophy knowledge.
2. This is still talking about philosophy in a classroom setting, taking 4 years of philosophy, not 30 minutes of an LD round about permissibility.
3. Test scores don’t prove you’re somehow better educated.

### Theory First Frontlines

#### AT Fairness only matters if there’s a violation

1. These are violations – alternate theories are unfair because the division of ground is poor.
2. Violations trigger fairness as a voter – my claim isn’t to drop the debater. You don’t prove that fairness isn’t a relevant impact.

## Offense Frontlines

### Europe

#### AT Norway Proves Correlation

1. Even if the societies are different, that doesn’t change human motives. Greed is universal, especially in wealthy societies. Being a psychopath can be rooted in one’s internal environment, i.e. mental diseases that are common to all populations.
2. My evidence cites re-arrest and recidivism rates -- Norway had a significant effect on the percentage decrease in the crime it did have, which takes into account the fact that there might have been less crime to begin with.
3. Crime is so low and rehab is so high that even if there are other factors that account for part of it, the programs are still inevitably effective.
4. The conditions are alike – both are first world countries with high standards of living and with a strong and comparatively efficient government.
5. Time makes any other explanation implausible – crime wouldn’t just decrease at the same time that such programs had been implemented.

#### Europe First

* 1. Europe is more indicative of when we entirely succumb to a system since we currently have a mix. Also U.S. rehab is used on a limited state-wide basis – Europe is a better example of when we implement them uniformly.
  2. Rehab is currently being TESTED in the U.S. so negative effects can be explained by unrealistic experimental conditions.
  3. Duration- rehab in the U.S. is short-lived spikes in crime might be initial effects – Europe’s been using it longer so its reflective of long-term implications
  4. If we endorsed rehab we would look to other nations’ programs as inspiration. If Europe works, it’s likely we would use the same effective models and programs that they use which turns arguments about their systems are structured differently, since affirming would change our system to match the variables that caused these results.

#### AT Sweden

Berman 05, The Reasoning and Rehabilitation Program, Anne H. Berman, Stockholm University, Journal of Offender Rehabilitation, 40:1-2, 85-103, 2005

This study found that Swedish male prison inmates who completed the [reasoning and rehabilitation] program showed short-term pro-social changes in sense of coherence, impulsiveness, venturesomeness, and attitudes towards the law, courts and po- lice as well as tolerance for crime and criminal identification. In addition, pro- gram completers showed a 25% lower risk of reconviction over a three-year period following prison release, compared to controls matched to both com- pleters and dropouts. On the other hand, program dropouts, younger and more criminally active, showed a 38% higher risk of reconviction compared to con- trols.¶ The present results agree with prior findings on the R&R program and with meta-analytic findings on cognitive-behavioral programs, suggesting that the program does, in fact, “work” to reduce recidivism by 10-15 percentage points among program completers. The apparent differences in reconviction figures among some subgroups suggest that more research is needed to identify whether certain subgroups benefit more from the R&R programs than others.

Prefer this over evidence that merely cites Sweden’s crime rates – even if there’s a lot of crime right now, that doesn’t mean there wouldn’t be even more with harsher sentences.

Methdology: Registry data were available from KVS for program participants between 1995 and 2000 with the exception of the year 1996, when no data were re- corded. Participants in the register originally numbered 653. Of these, 57 were removed because they occurred more than one time due to administrative er- ror, and 11 were removed because they lacked the personal identification number necessary for collecting reconviction data. Furthermore, 53 partici- pants were excluded due to missing data in the prison and probation registry information; an additional participant had been deported and one had died. Complete preliminary data were thus available for 530 individuals to whom the program was offered in 21 of 55 Swedish prisons and 8 of 43 probation of- fices. The sample was reduced by 7 persons who had been sentenced before 1990 and could not be matched to controls. Two groups not included in this ar- ticle were 33 women prisoners and 118 male probationers (unpublished data). The present study thus concerns 372 male prisoners who participated in one of 69 three-month program cycles held between 1995 and 2000. Each cycle in- cluded an average of 4 to 8 participants."

### Lipsey

#### Publication Bias

I account for publication bias –analyses usually are tainted because they only include published data, but my surveys include unpublished data as well.

Lipsey 2

Skeptics might question whether the broadly positive average effects of rehabilitation treatments found in the studies included in these meta-analyses actually reflect the benefits of treatment or some equally broad and pervasive upward bias in the effect estimates generated by those studies.One suchpossible bias thatis well known to meta-analysts isthe tendency for published studies to show larger effects than unpublished ones, presumably because of the selection processes associated with the development, submission, and review of manuscripts for journal publication (Rothstein et al. 2005). Mean effect sizes from meta-analyses that include only published studies, or which greatly overrepresent them, may thus be inflated. This is an unlikely explanation for the findings in Table 2, however.Most of the meta-analyses in Table 2include unpublished studies, which, even if underrepresented, should diminish the influence of publication bias on their results. In addition,direct comparisons between the mean effect sizes for published and unpublished studies appear in some meta-analyses of specific treatments (we discuss these more fully below).A few of these do find larger effects reported in published studies(Gallagher et al. 1999, Landenberger & Lipsey 2005, Reitzel & Carbonell 2006),but others find the reverse(Illescas et al. 2001, Wilson et al. 2006) or differences going both ways (Mitchell et al. 2006).In all cases, however, the unpublished studies also show mean positive effects andthe differences between published and unpublished studies are not large enough to account for the generally positive overall effects. This is perhaps not surprising in a research area in which, historically, finding and reporting no difference have not been viewed as uninteresting, and indeed, at one time were almost normative.

### Environmental Factors

Offender programs need to target the “dynamic predictors” of crime, which can be changed. Cullen and Gendreau Cullen, Francis T. [Distinguished Research Professor of Criminal Justice with the University of Cincinnati.], and Paul Gendreau [Director, Centre for Criminal Justice Studies, and Professor of Psychology with the University of New Brunswick at Saint John]."Assessing Correctional Rehabilitation: Policy, Practice, and Prospects." Criminal Justice 3 (2000): 109-75.

The first principle is that interventions should target the known predictors of crime and recidivism for change. This principle starts with the assumption that correctional treatments must be based on criminological knowledge—what they call the “social psychology of criminal conduct” (Andrews 1995; Andrews and Bonta 1998). There are two types of predictors that place offenders at risk for crime: “static” predictors—such as an offender’s criminal history—which cannot be changed, and “dynamic” predictors—such as antisocial values—that can potentially be changed. In this perspective, these dynamic predictors or risk factors are typically referred to as “criminogenic needs.” In investigating risk factors or predictors of crime, it is possible that the research could have indicated that the major predictors are static. If so, then the prospects for rehabilitation would have been minimal. But this did not turn out to be the case. Meta-analyses reveal that many of the most salient predictors are dynamic (Andrews and Bonta 1998; Gendreau, Little, and Goggin 1996). These include: (1) “antisocial/procriminal attitudes, values, beliefs and cognitive-emotional states (that is, personal cognitive supports for crime)”; (2) “procriminal associates and isolation from anti- criminal others (that is, interpersonal supports for crime)”; and (3) antisocial personality factors, such as impulsiveness, risk-taking, and low self-control (Andrews 1995, 37; see also Andrews and Bonta 1998, 224–225; Gendreau, Little, and Goggin 1996). Conversely, the research suggests that many factors thought to cause crime, such as low self-esteem, are unrelated or only weakly related to recidivism. Thus, targeting these factors for intervention will produce little, if any, change in offenders’ conduct.

And only rehabilitative services target these needs. Cullen and Gendreau:

Cullen, Francis T. [Distinguished Research Professor of Criminal Justice with the University of Cincinnati.], and Paul Gendreau [Director, Centre for Criminal Justice Studies, and Professor of Psychology with the University of New Brunswick at Saint John]."Assessing Correctional Rehabilitation: Policy, Practice, and Prospects." Criminal Justice 3 (2000): 109-75.

Second, the treatment services should be behavioral in nature. In general, behavioral interventions are effective in changing an array of human behavior. With regard to crime, they are well-suited to altering the “criminogenic needs”— antisocial attitudes, cognitions, personality orientations, and associations—that underlie recidivism. For this reason, Andrews argues that behavioral interven- tions satisfy the criterion of “general responsivity”; that is, they match the needs of offenders. Andrews (1995, 56) notes that these interventions would “employ the cognitive behavioural and social learning techniques of modelling, graduated practice, role playing, reinforcement, extinction, resource provision, concrete verbal suggestions (symbolic modelling, giving reasons, prompting) and cog- nitive restructuring.” Reinforcements in the program should be largely positive, not negative. And the services should be intensive, lasting 3 to 9 months and occupying 40 to 70 percent of the offenders’ time while they are in the program (Gendreau 1996b). In contrast, other treatment modalities lack general respon- sivity. Andrews and Hoge (1995, 36) contend that less effective treatment “styles are less structured, self-reflective, verbally interactive and insight-oriented approaches.” Punishment approaches do not target criminogenic needs and thus are among the most ineffective interventions with offenders.

And retributivist theories don’t take into account environmental factors.

Odudu 2003 [Deputy Director of the Centre for European Legal Studies at Cambridge University, Herchel Smith Lecturer and British Academy Mid-Career Fellow, “Retributivist Justice in an Unjust Society” Ratio Juris Vol. 16 No. 3 September 3003 (416-31)]

“[T]hose born into the social system at different positions, say in different¶ social classes, have varying life-prospects determined, in part, [. . .] by the¶ economic and social opportunities which are made available to these positions” (Rawls 1993a, 77). Bill will have a much harder life than Ben; most ¶ of what he can do to alleviate hardships will be illegal. “Someone who is¶ relatively poor will be more tempted to steal food or clothes that others can¶ simply buy” (Duff 1998b, 191). To make his life easier, Bill may have to go¶ outside the parameters of law, whilst Ben can more easily achieve his life¶ plan within legal parameters. The positions the actors occupy in society are¶ not earned but the result of luck or misfortune: Ben does not deserve an easy¶ life any more than Bill deserves a hard one. Our concern here is not with¶ the propriety of income and wealth distribution, but with a sense of injustice arising from the recognition that by making the same claims on actors,¶ regardless of social position, the law will bear more heavily on Bill than Ben.¶ 3¶ The problem with Murphy’s retributivis[m]t punishment is that it assumes¶ beneﬁts from society, and in a world characterised by social injustice such¶ punishments seem inapplicable to those from a deprived background.¶

Environmental factors also play roles in the drop of crime.Przybylski 08 Effective Recidivism Reduction and Risk-Focused Prevention Programs http://dcj.state.co.us/ors/pdf/docs/ww08\_022808.pdf

The drop in crime that most jurisdictions experienced in the 1990s is primarily due to factors other than incarceration. Studies that have focused on explaining the drop in crime have consistently concluded that incarceration has played a role in the crime drop but that social, policing and other factors together are responsible for at least two-thirds and arguably much more of the overall crime decline.

### AT Deterrence

#### AT Police

1. T: Individuals are prone to rebel against authority as proven through the occupy movement, strikes, and rioting.
2. T: More police brings illegal operations underground – prohibition is a great example.
3. T: We already get access to the deterrent benefits because the aff doesn’t get rid of the police. Spending more resources on more police officers breaks that equilibrium and cuts funding for other programs.
4. T: If this method solely works because people are afraid they’re being watched when there’s no surveillance, people are more likely to commit a lot of crimes all at once – you don’t change the behavior, you just change when it occurs.
5. T: This will reduce the efficacy of the whole force because more people will need to be trained for more police efforts. There’s a reason there are only so many officers right now.
6. Rehabilitation and retribution refer to treatments once within the program. Means I get access to police arguments.
7. Even if the police are part of the system, they’re just 1/3 so it’s a very small link.

#### AT Domestic Violence Outweighs

1. This is unquantifiable since most of it goes unreported
   1. means you have an indeterminate link into your impact.
   2. means its not as solvable, so we should invest our resources in crime because we can comparatively fix it
2. Crime affects everyone but domestic violence only affects certain relationships – fear from the entire community outweighs, even if your examples are harsher.
3. Outweighs on scope because there are more forms of crime that can do more damage, rather than your impact which is limited to violence.
4. More money goes towards solving crime in the squo; if we make progress on that front, excess can be invested into your impact, so I control the internal link.

#### AT Martinson/Pratt

Nearly half of the studies Martinson reviewed did decrease recidivism. Cullen and Gendreau:

Cullen, Francis T. [Distinguished Research Professor of Criminal Justice with the University of Cincinnati.], and Paul Gendreau [Director, Centre for Criminal Justice Studies, and Professor of Psychology with the University of New Brunswick at Saint John]."Assessing Correctional Rehabilitation: Policy, Practice, and Prospects." Criminal Justice 3 (2000): 109-75.

In the best-known rebuttal to Martinson, Ted Palmer (1975) approached the “what works” issue from a different perspective: the vote-counting or ballot box approach. Palmer identified 82 studies cited by Martinson in his 1974 essay. He then counted how many of these studies showed that treatment had a “positive” or “partially positive” effect on recidivism. He calculated that 39 studies, 48 percent of the total, could be categorized as reducing recidivism. This startling figure offered convincing proof, it seemed, that the “nothing works” doctrine was fallacious. Notably, subsequent analyses of other studies published at this time and later—most of which reached pessimistic conclusions about rehabilitation—revealed similar results. As Andrews et al. (1990, 374) observe, “reviews of the literature have routinely found that at least 40 percent of the better-controlled evaluations of correctional treatment services reported positive effects” (see also MacKenzie 1998).

The sample size of the Martinson study is misleading. Cullen and Gendreau:

Cullen, Francis T. [Distinguished Research Professor of Criminal Justice with the University of Cincinnati.], and Paul Gendreau [Director, Centre for Criminal Justice Studies, and Professor of Psychology with the University of New Brunswick at Saint John]."Assessing Correctional Rehabilitation: Policy, Practice, and Prospects." Criminal Justice 3 (2000): 109-75.

In fundamental respects, therefore, the Lipton, Martinson, and Wilks (1975) volume was a responsible review of the existing literature at that time (1945 to 1967). Still, certain aspects of their study warrant closer attention because they affect how the findings of this classic work should be understood. First, in a claim invariably repeated in the criminological literature, Martinson (1974b) stated that the Lipton, Martinson, and Wilks research team reviewed 231 stud- ies. Although technically correct, this figure is misleading. To be included in the research, a study had to include a measure for any of the following out- comes: recidivism, institutional adjustment, vocational adjustment, educational achievement, drug and alcohol readdiction, personality and attitude change, and community adjustment. Some studies contained data on more than one out- come, so that Lipton and colleagues were able to report the impact of treatment on 286 outcome measures. Importantly, however, their study was based on only 138 measures of recidivism—not 231 as is commonly believed. Second, Lipton, Martinson, and Wilks (1975, 9) created 11 “treatment methods” or “independent variables” that were then cross-tabulated with the out- come measures, including recidivism: probation, imprisonment (sentence length), parole, casework and individual counseling, skill development, individ- ual psychotherapy, group methods, milieu therapy, partial physical custody (halfway house placement), medical methods (plastic surgery, castration), and leisure-time activities. Although useful to examine[d], it is difficult to see how probation, imprisonment, and parole can be classified as “treatments.” If these categories are taken out of the analysis, the number of recidivism outcomes for the study, which started at 138, is reduced by 55 to 83 outcome measures. We might even argue that partial physical custody, medical methods, and leisure- time activities are not treatment modalities per se; if so, then the outcome measures for recidivism are lowered another 10 outcomes to 73. Regardless of where the line is drawn, the point is clear: The number of studies on which the “nothing works” conclusion was based was far lower than is commonly believed. This is not a criticism of the study per se, since the Lipton, Martinson, and Wilks analysis was the most comprehensive review when it appeared. But it does mean that the number of studies per treatment category was not high: 7 for casework/individual counseling; 15 for skill development; 12 for individual psychotherapy; 19 for group methods; and 20 for milieu therapy. When the het- erogeneity of studies falling into each category is examined, the difficulty in interpreting the results becomes clearer. As Klockars (1975, 58–59) points out, the “skill category,” for example, included programs that provided such diverse services as vocational counseling, role modeling, training in data processing, and attending school. Although provocative, Klockars (p. 59) has a point when he claims “that the ‘independent variable category’ of ‘skill development’ is, at best, an editorial and organizational fiction that has no coherence on any other basis. It is thus preposterous,” he continues, “to talk in any way about the effects of ‘skill development’ as a category, since as a category it simply doesn’t exist.”

Martinson excluded modern programs like CBT and didn’t consider crime holistically. Cullen and Gendreau:

Cullen, Francis T. [Distinguished Research Professor of Criminal Justice with the University of Cincinnati.], and Paul Gendreau [Director, Centre for Criminal Justice Studies, and Professor of Psychology with the University of New Brunswick at Saint John]."Assessing Correctional Rehabilitation: Policy, Practice, and Prospects." Criminal Justice 3 (2000): 109-75.

Third, Lipton, Martinson, and Wilks did not include a category for “cognitive- behavioral” programs (for a description, see Andrews and Bonta 1998; Lester and Van Voorhis 1997). As Martinson (1974a, 5) noted, “methods not evaluated included work release, methadone maintenance, recent forms of so-called ‘behavior modification,’ and what have come to be called diversion methods” (see also Greenberg 1977, 130, who reviewed only three “behavior modification programs”). This omission is salient because there is growing evidence that these programs are among the most effective in reducing offender recidivism (Andrews and Bonta 1998; Gendreau 1996b). In any case, Martinson did not provide a systematic analysis of cognitive-behavioral programs, and thus the “nothing works” doctrine, as developed in his work, cannot be applied to this treatment modality. Fourth [Further], as Martinson (1976a, 1976b) pointed out, various intervention strategies did have positive impacts on outcome variables other than recidivism, such as institutional adjustment and educational achievement (see also Lipton, Martinson, and Wilks 1975, 532–558). Admittedly, the key criterion for assessing the utility of treatment interventions from a public policy perspective is whether crime is reduced; this is why recidivism is the primary focus of this essay. Even so, it is worthwhile to note that beyond their influence on recidivism, rehabilitation programs can have collateral beneficial effects on offenders—such as those identified by Martinson. In turn, in calculating the overall utility of treatment programs versus punishment-oriented sanctions that do not invest in improving offenders’ lives, some weight might well be given to the collateral benefits gained by exposing offenders to varying treatment conditions.

### AT Politics Disads Control the Internal Link

#### AT Programs Get Cut

1. Wouldn’t cut a program if it was just initiated – would start off cutting the most expensive and the least effective programs.
2. Issues in the domestic sphere need to be solved first because they are immediately pressing; means that solid crime policies will be less temporary.

#### AT Unpopular so Roll-back

1. Obviously there’s not huge support for the aff since it hasn’t happened already – I fiat past those problems which should also take care of this argument.
2. Unrealistic – lots of time goes into passing a bill and reforming it, so it wouldn’t just get eliminated immediately.
3. If my aff is good, by the time the bill gets appealed, it will have enough solvency to gain support.

#### AT Crime is Worse in Bad Economies

The economy doesn't influence crime rates; bad economies in most circumstances decrease them.

Krisberg 09 Krisberg, Barry, UC Berkeley Director of Research and Policy, National Council on Crime and Delinquency (NCCD), “Crime and Economic Hard Times ,” February 2009

**NCCD’s** secondary **research shows that there is no** clear **relationship between economic recession and crime rates. There is no evidence over the past four decades that economic downturns have led to increases in crime rates,** even if one were to assume a lag between the time of a recession and a spike in crime. **Crime spiked at various points but did not correlate with economic expansions or recessions.** Although media reports can be compelling, **the data presented here are [is] supported by studies elsewhere. A 2008 study of violent crime trends in 100 US cities** **by** the Chapin Hall Center for Children at **the University of Chicago found that only nine cities saw a definitive increase, while nearly all others saw a decline in violent crime** (Butts, 2008). A working paper by the Federal Reserve Bank of St. Louis concluded that there is “weak evidence across US cities that changes in economic conditions significantly influence short-run changes in crime” (Garrett, 2008).

This is good data

Krisberg 09:

**NCCD is the nation’s oldest criminal justice research organization. Its body of work over more than 100 years shows time and again** that building more prisons and locking up an ever increasing segment of our society does little to reduce crime. On the contrary, fostering healthy communities, drug treatment, and mental health services is not only effective, but is an investment in

our citizens and our future. As the media hypes a link between the economy and increased crime, the NCCD objective is to inject the facts into this highly emotional discussion. Faulty assumptions never lead to real solu- tions. On the other hand, a perspective based on fact is much more likely to lead us to sound public policy.

**NCCD used three indicators to measure crime: reported crime data, arrest data, and prison data from 1970 to the present**. National data were reviewed along with data for the ve most populous states: California, Florida, Texas, New York, and Illinois. The period since 1970 encompasses the most sustained recessions since the Great Depression, as well as several lengthy periods in which the economy was expanding. **Reported crime and arrest data were obtained from the FBI’s annual Crime** in the United States (CIUS) **publication**. **Rates for reported crime were available through Bureau of Justice Statistics** (BJS) Crime and Justice Data Online. R**ates for arrests were calculated using the US Census Bureau’s Population Estimates**. Arrest data included juveniles (ages 10-17) and adults (ages 18 or older). Prison data were obtained from a report funded and published by BJS, titled *Historical Statistics on Prisoners in State and Federal institutions, Yearend 1925-1986: United States* as well as the most recent versions the National Prisoner Statistics data series from BJS. **Data used represent the most re- cent version published and may not correspond exactly with data used in previous reports**

Krisberg, Barry, UC Berkeley Director of Research and Policy, National Council on Crime and Delinquency (NCCD), “Crime and Economic Hard Times ,” February 2009

## Theory Frontlines

### AT Spec theory

A: Aff doesn’t have to defend a specific policy in the 1AC but must grant links to disads if asked in CX

B:

C:

1. Text- resolution is a shift towards rehab due to the word “value”; it’s intentionally not in the context of particulars and asks about two concepts as broad categories. Resolution asks for rehab and retribution to be used in conjunction, so its more likely asking about a balance of the two as opposed to an increase in something specific.

Text has two internal links

1. to ground – firstly, text determines what arguments each side gets and secondly, framers choose wordings for topics to set a fair division of ground, so consistency with their intended interp is more likely to provide that
2. predictability – even if your interp is more fair, I would most likely prep the correct interp of the resolution
3. CX better
   1. Ruse- a text encourages negs not to ask questions because of the assumption that the advocacy was outlined
   2. Semantics- CX is formal acknowledgment of what an advocacy entails.

On interp

1. I-meet – Lipsey and Cullen cite specific programs that are in the text of my aff.

On ground

1. T: Exclude meta-analyses that synthesize multiple programs that are the most indicative of what happens over time.
2. T: I would cherry-pick, which is the strongest harm to fairness since I pick args that only flow my way and you have 0 engagement in the debate

On shift

1. T: Only a problem if we’re talking in context of specific policies
2. 2NR theory checks and is more persuasive
3. I can still shift under specific advocacies, but its worse since I shift to specifics about how I went about implementing it